

[Mr. Speaker]

[7th August 1963]

is that of the Government of India, and (iii) As per the explanation of the Hon. Minister for Finance, the Corporation itself would consider the matter in future. In view of these circumstances, I do not think the adjournment motion is necessary. Therefore the adjournment motion is out of order.

IV.—PRIVILEGE MATTER *re* PROROGATION OF THE  
ASSEMBLY FROM 6TH JUNE 1963

MR. SPEAKER: Hon. Members are aware of the matter of privilege raised yesterday by the hon. Member Sri M. Kalyanasundaram.

The Legislative Assembly was adjourned *sine die* on 1st April 1963. The Speaker convened the Legislative Assembly to meet on 24th July. This information was communicated to the hon. Members on 28th May. On 6th June the session of the Assembly was prorogued. The order of the Governor proroguing the Assembly with effect from 6th June had the effect of cancelling the order of the Speaker convening the meeting of the Assembly for 24th July. Subsequently the Governor summoned the Assembly to meet on 6th August. The contention of the hon. Member is that the advice of the Ministry to the Governor to prorogue the session interferes with the sovereignty of the House and encroaches on the powers of the Speaker.

Under Article 174 of the Constitution, the Governor is empowered to prorogue the Assembly from time to time. This function of the Governor is non-justiciable and the Governor's act cannot be challenged even on any ground. In the present case the Assembly has been prorogued to enable the Governor to promulgate an ordinance as no ordinance can be promulgated if the Assembly or the Council is in session. The question whether the Assembly should be prorogued for the purpose of promulgating an ordinance was considered by the Madras High Court in 1950 in Veerabhadrayya's case. It has been held in that judgment that "It is open to His Excellency the Governor to prorogue the Legislature at any time he pleases. We do not see anything wrong in the Governor proroguing the Assembly and Council with a view to enable himself to issue an ordinance under Section 88 of the Government of India Act (which is similar to Article 213 of the Constitution). It is a well-known fact that the Legislature which is democratically constituted, is very slow to move in the matter of legislation, having regard to the rules of procedure laid down in that behalf and if urgent action is necessary, at any rate, when His Excellency the Governor has reasons to believe that immediate action is necessary, it will be more expedient to have resort to the power of issuing an ordinance under Section 88 rather than approach the Legislature for the necessary legislation. I therefore, hold that the advice of the Ministry to the Governor to prorogue the Assembly does not interfere with the sovereignty of this House."

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[Mr. Speaker]

The other point to be considered is whether the power of the Speaker is encroached upon. Rule 16 of the Assembly Rules states that the Speaker has power to adjourn the Assembly from time to time within a session. Rule 17 states that if the Assembly has been adjourned to a particular date the Speaker may summon the Assembly for an earlier or later date. The Speaker adjourned the Assembly *sine die* on 1st April. On the 28th May the Speaker convened the Assembly to meet on the 24th July. Of course, the Speaker fixed the 24th July on the advice of the Ministry. Within a week the Ministry advised the Governor to prorogue. As I put it earlier, the necessity and urgency of the ordinance is a matter entirely for the decision of the Governor. But the Governor acts on the advice of the Ministry. When the urgency arose, is a pertinent point. If it arose all of a sudden, of course, there is no blame on anybody. If it is not, the procedure adopted could have been avoided. There is no precedent of this sort in the matter of procedure.

I hold that no *prima facie* case is made out.

Sri M. KALYANASUNDARAM rose.

MR. SPEAKER: The hon. Member will please resume his seat.

V.—PRESENTATION OF THE REPORTS OF THE  
COMMITTEE ON ESTIMATES.

SRI T. M. NALLASWAMY: Mr. Speaker, Sir, I, as the Chairman of the Committee on Estimates, beg to present the Fifth Report of the Committee on the action taken by the Government on the recommendations of the Committee contained in the Report on Animal Husbandry and the Sixth Report on Labour including Factories.

திரு. கே. டி. கோசல்ராம்: கனம் சபாநாயகர் அவர்களே, 'ஆன் எ பாயிண்டு ஆப் இன்பர்மேஷன்'. இந்தச் சபையிலுள்ள சதந்திராக் கட்சி அங்கத்தினர்கள் அத்தனை பேர்களும் ஒருவர் பின்னால் ஒருவர் எழுந்து போய் விட்டார்களே? அதற்குக் காரணம் என்ன? கனம் சபாநாயகர் அவர்களுக்கு அதுபற்றி ஏதாவது தகவல் இருக்கிறதா என்று அறிய விரும்புகிறேன்.

கனம் சபாநாயகர்: எத்தனையோ பேர்கள் எழுந்து போய்க் கொண்டிருக்கிறார்கள், திரும்பவும் வருகிறார்கள். (சிரிப்பு). அவர்களுல்லாம் சபாநாயகருக்கு தகவல் கொடுக்கவேண்டுமென்றால், பெரிய சங்கடமாகப் போய்விடும்.

VI.—FIRST SUPPLEMENTARY STATEMENT OF EXPENDITURE  
FOR 1963-64.

\* கனம் திரு. எம். பக்தவத்சலம்: கனம் சபாநாயகர் அவர்களே, 1963-64-ம் ஆண்டுக்குரிய முதல் துணை மதிப்பீடுகளை நான் சமர்ப்பிக்கிறேன். பற்பல மானியங்களின்கீழ், உப மானியக் கோரிக்கைகளை விளக்கும் விரிவான குறிப்பு ஒன்று சட்டசபையில்